

SENATE BILL 943

11, 12

3lr3096
CF HB 400

By: **Senator Jennings**

Introduced and read first time: February 20, 2023

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law – Ability to Repay Verification – Exemption**

3 FOR the purpose of exempting mortgage loans made by community development financial
4 institutions from certain requirements to verify the borrower’s ability to repay; and
5 generally relating to mortgage loans.

6 BY repealing and reenacting, with amendments,
7 Article – Commercial Law
8 Section 12–1029
9 Annotated Code of Maryland
10 (2013 Replacement Volume and 2022 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
12 That the Laws of Maryland read as follows:

13 **Article – Commercial Law**

14 12–1029.

15 (a) (1) In this section the following words have the meanings indicated.

16 (2) **“COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION” HAS THE**
17 **MEANING STATED IN § 6–201 OF THE HOUSING AND COMMUNITY DEVELOPMENT**
18 **ARTICLE.**

19 (3) **“Fully indexed rate”** means the index rate, as defined in the mortgage
20 loan documents, prevailing at the time the mortgage loan is approved by the credit grantor,
21 plus the margin that will apply after the expiration of an introductory interest rate.

22 [(3)] (4) (i) **“Mortgage loan”** has the meaning stated in § 11–501 of the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Financial Institutions Article.

2 (ii) "Mortgage loan" does not include a reverse mortgage loan.

3 (b) A credit grantor may not make a mortgage loan without giving due regard to
4 the borrower's ability to repay the mortgage loan in accordance with its terms, including
5 the fully indexed rate of the mortgage loan, if applicable, and property taxes and
6 homeowner's insurance whether or not an escrow account is established for the collection
7 and payment of these expenses.

8 (c) (1) Due regard to a borrower's ability to repay a mortgage loan must
9 include:

10 (i) Consideration of the borrower's debt to income ratio, including
11 existing debts and other obligations; and

12 (ii) Verification of the borrower's gross monthly income and assets
13 by review of third-party written documentation reasonably believed by the credit grantor
14 to be accurate and complete.

15 (2) Acceptable third-party written documentation includes:

16 (i) The borrower's Internal Revenue Service form W-2;

17 (ii) A copy of the borrower's income tax return;

18 (iii) Payroll receipts;

19 (iv) The records of a financial institution; or

20 (v) Other third-party documents that provide reasonably reliable
21 evidence of the borrower's income or assets.

22 (3) This subsection does not apply to a mortgage loan:

23 (i) Approved for government guaranty by the Federal Housing
24 Administration, the Veterans Administration, the United States Department of
25 Agriculture, the Maryland Department of Housing and Community Development, or the
26 Community Development Administration; [or]

27 (ii) That refinances an existing mortgage loan if the refinance
28 mortgage loan is:

29 1. Offered under the federal Homeowner Affordability and
30 Stability Plan; and

31 2. Made available by the Federal Home Loan Mortgage

1 Corporation or the Federal National Mortgage Association; **OR**

2 **(III) MADE BY A CREDITOR DESIGNATED AS A COMMUNITY**
3 **DEVELOPMENT FINANCIAL INSTITUTION.**

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2023.